

**REGULAR MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION**

~ APPEALS ~

Friday, April 29, 2022
9:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Jordan Russell, Commissioner Megan Tilly, and Commissioner Scott Biggs.

Staff present to support the Commission: Alexander Watkins, WCC; and Lindsey Christopher, WCC.

STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE

Chairman Russell stated the administrative meeting was being held in compliance with the Open Meetings Act.

CALL TO ORDER Presiding Appellate Officer, Commissioner Tilly

Call to order 9:05 a.m. by Commissioner Tilly, Presiding Appellate Officer.

ROLL CALL Presiding Appellate Officer, Commissioner Tilly

After the roll call was taken, Commissioner Tilly announced there was no Quorum.

Members present: Commissioner Tilly

Members absent: Chairman Russell and Commissioner Biggs

Commissioner Tilly called for a recess until 10:15 a.m.

The Commission reconvened at 10:25 a.m. After the roll call was taken, Commissioner Tilly announced the presence of a Quorum.

Members present: Commissioner Tilly, Chairman Russell, and Commissioner Biggs.

A. MINUTES:

- The drafted Minutes of the Regular Appeals Meeting of March 25, 2022, were considered for approval.

Motion: Commissioner Biggs made a motion to approve the Regular Appeals Meeting of March 25, 2022, minutes.

Second: Commissioner Tilly

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: MINUTES APPROVED

B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges

1. Damen Cox v. TPI Staffing Service Inc. and CompSource Mutual Ins. Co. (FKA COMPSOURCE OKLAHOMA), File #CM3-2020-06868L

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. James G. Devinney appeared for the Claimant and Dawson Kester appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

2. Tanya Theis v. MITF, File #CM3F-2016-06883Q

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Micah Felton appeared for the Claimant and Travis Colt appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

3. **J. Asuncion (Soto) Abonza v. Exterran Holdings Inc. and American Zurich Insurance Co., File #CM3-2015-08100F**

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Bret A. Unterschuetz appeared for the Claimant and Michael Fagan appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to take this case under advisement.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: TAKEN UNDER ADVISEMENT

4. **Shari M. Tyson v. Muskogee Nursing Center and Liberty Mutual Insurance Co., File #CM3-2018-05336Y**

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Claimant failed to appear, and Cyrus Lawyer appeared for the Respondent.

Motion: Commissioner Tilly made a motion to accept the record submitted on file by Claimant and Respondent.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: RECORDS ON FILE WERE ACCEPTED

Motion: After reviewing the record and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

5. **Dan McCoy v. MITE, File #CM3F-2019-06635F**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Ray Lahann appeared for the Claimant and Travis Colt appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

6. Rita Morales v. Walmart Stores Inc. and Walmart Associates Inc. (OWN RISK), File #CM3-2015-07958X

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan H. Jones appeared for the Claimant and Jordan S. Ensley appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take this case under advisement.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: TAKEN UNDER ADVISEMENT

7. Tracy Minor v. Hobby Lobby Stores Inc. and Indemnity Insurance Co. of North America, File #CM3-2020-05570X

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Joseph C. Biscone II and Emily Biscone appeared for the Claimant and James C. Ferguson appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to take preliminary action to remand this cause for the taking of additional evidence, in the form of an independent medical examiner, and instructs the Commission's Appellate Council to draft an order, with the Commission's reasoning, to be adopted at a future meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: REMANDED FOR ADDITIONAL EVIDENCE

8. Margo Johnston v. Spirit Aerosystems Inc. and The Insurance Co. of the State of Pennsylvania, File #CM3-2018-04824J

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Susan H. Jones appeared for the Claimant and Travis A. Fulkerson appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

C. Commission Consideration of Adoption of Final Orders in the Following Cases:

1. Earl Appleberry v. Western Flyer Express LLC and United States Fire Insurance Co., File #CM3-2019-07029Q

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Timothy Kent appeared for the Claimant and Travis A. Fulkerson appeared for the Respondent.

This case came on for Oral Argument on November 19, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

2. John Rosson v. Roundtree Automotive Group LLC and State National Insurance Co., File #CM3-2019-03668K

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Michael R. Green appeared for the Claimant. Blake Farris appeared for the Respondent.

This case came on for Oral Argument on December 17, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

3. Ray McGlocklin v. Jernigan's Sporting Goods Inc., File #CM3-2020-01803F

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. John R. Colbert appeared for the Claimant and Timothy E. Lurtz appeared for the Respondent.

This case came on for Oral Argument on January 28, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

ADJOURNMENT

Motion: Commissioner Tilly moved to adjourn the meeting at approximately 3:20 p.m.

Second: Commissioner Biggs.

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.